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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 VIOLET BLUE, an Individual,

12 Plaintiff and
13 counterclaim
defendant,

14 v.

15 ADA MAE JOHNSON a/k/a ADA
WOFFINDEN, an individual d/b/a
16 VIOLET BLUE a/k/a VIOLET a/k/a
VIOLET LUST; et al.,

17 Defendants and
18 counterclaimants.

Case No. C 07-5370 SI

**DECLARATION OF VIOLET BLUE IN
SUPPORT OF PLAINTIFF BLUE'S
MOTION FOR PRELIMINARY
INJUNCTION**

Hon. Judge Illston
Courtroom 10, 19th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Hearing Date: May 9, 2008
Hearing Time: 9:00 a.m.

Case No. C 07-5370 SI

DECLARATION OF V. BLUE ISO PLF BLUE'S MOT. FOR PRELIMINARY INJUNCTION

1 I, Violet Blue, declare as follows:

2 1. My name is Violet Blue and I am the plaintiff in this action. I have personal
3 knowledge of the facts in this declaration unless otherwise stated, and could and would
4 competently testify to them if called as a witness.

5 2. I am a writer and blogger, podcaster, reporter, San Francisco Chronicle's sex
6 columnist, a 12-year veteran of internationally known machine arts organization, Survival
7 Research Laboratories, and a Forbes.com "Web Celeb." I write for publications like *Forbes* and
8 *O: Oprah Magazine*. I am also a best-selling, award-winning author/editor of two-dozen books
9 with several translations. I lecture to cyberlaw classes at UC Berkeley, tech conferences, Google,
10 Inc., and advise sex crisis counselors at community teaching institutions.

11 3. I understand that defendant Ada Mae Johnson a/k/a Ada Woffinden, d/b/a Violet
12 Blue a/k/a Violet a/k/a Violet Lust, is defending her use of my federally-registered trademark,
13 and brand, "VIOLET BLUE," as her "stage name" and for her sales of goods and services in the
14 adult industry, on grounds that she began using the stage name on December 20, 2000. I
15 understand that Defendant Woffinden is also claiming that I was not "famous" at the time
16 Defendant Woffinden adopted the use of my trademark for her stage name. I provide this
17 declaration for the purpose of providing this Court with evidence to (1) document my use of my
18 name as a brand, and (2) document the fame that I had attained before Defendant Woffinden's
19 alleged date of adopting her stage name. In providing this declaration I in no way concede that
20 Defendant Woffinden's statement concerning her date of adoption is factually accurate.

21 4. At least as early as 1996, if not earlier, I began using my name, Violet Blue, as
22 my brand in building my career as a machine and robotics artist, and later as a professional
23 writer, sex educator, and speaker. The following paragraphs explain some of the significant
24 details of this journey.

25 5. In January of 1996, I provided my services as a machine artist for a Survival
26 Research Laboratories ("SRL") robotics and machine art show. A machine artist is a person who
27 creates, operates and works on artistic machines, robotics, and large-scale robotic installations
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1 for art shows, gallery displays, and the like. (An example of this genre of art is the “Robot Wars”
2 television program became popular in the 1990s.) The January 1996 event was filmed for SRL’s
3 product line, and is available for purchase for \$25 to this day from the SRL website at
4 http://srl.org/shows/phoenix/video_release.html. The title of the resulting film is “Survival
5 Research Laboratories Contemplates A Million Inconsiderate Experiments in Phoenix Arizona.”
6 This January 1996 experience as a machine artist for SRL is the earliest date that I can recall, at
7 this time, having provided my branded services and publicly appeared on a commercially
8 available work. It represents, in my mind, the beginning of my work in the field of machine
9 art/robotics, which later lead to my working as a writer and journalist. Attached to this
10 declaration as Exhibit A is a true and correct copy of the cover of the videotape recording of this
11 event, and also a single image from the videotape showing my name in the credits as having
12 worked as a machine artist.

13 6. In October of 1996, March of 1997, and December of 1999, I continued to
14 provide my services as a machine artist for SRL productions similar to the one depicted in
15 Exhibit A and described in paragraph 5 of this declaration. These events took place in San
16 Francisco, California, Austin, Texas, and Tokyo, Japan, respectively. Information about these
17 events, including recordings which are for sale, are available from SRL’s website at:
18 <http://srl.org/video/#videos>, <http://srl.org/shows/austin/>, and <http://srl.org/shows/ntt/crew.html>,
19 respectively. Attached hereto as Exhibit B is a true and correct copy of the label of the DVD
20 recording of the October 1996 event, and also a single image from the videotape showing my
21 name in the credits as having worked as a machine artist. Attached hereto as Exhibit C is a true
22 and correct copy of the cover of the label of the videotape recording of the March 1997 event,
23 and also a single image from the videotape showing my name in the credits as having worked as
24 a machine artist. Attached hereto as Exhibit D is a true and correct copy of the cover of the
25 program for the December 1999 event, the masthead page of that program, and also several
26 images from within the program showing me working as a machine artist for the event.

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1 7. While working with SRL, as early as 1996, I also contributed regularly to the
2 content on the SRL website under my name and brand, VIOLET BLUE.

3 8. In October and November of 1997, with an entity called Amorphic Robot Works,
4 I also provided my services as a machine artist in Berlin, Germany, and Lisbon, Portugal,
5 respectively.

6 9. Also during this time, from 1996 to 1999, I spent significant time and effort
7 developing my writing and journalistic presence in the fields of human sexuality, sex culture, sex
8 education, pornography, sexual pleasures, and erotic literature. I was hired in October 1998 by
9 Good Vibrations to work as a Sex Educator Sales Associate (or “SESA”). I participated in the
10 sex education training required of all SESAs, and Carol Queen was one of my trainers.

11 10. Shortly after I started at Good Vibrations, I was asked to take on additional
12 responsibilities as a copywriter for both the Good Vibrations website (www.goodvibes.com) and
13 the company’s mail-order catalog. I replaced Susie Bright, a pioneer and predecessor, in this role
14 with Good Vibrations. As a copywriter, I reviewed hundreds of adult-oriented books and videos
15 sold by Good Vibrations. The company’s mail-order catalog was distributed internationally and,
16 of course, the website could be accessed by consumers anywhere in the world.

17 11. In 1999, my writing career was taking off. I published my first article in May
18 1999, in an online magazine (or “webzine”) called Gothic.net. Thomas Roche hired me to write
19 the article, and Darren McKeeman, the owner, and was responsible for running the website and
20 paying me.

21 12. Then, in approximately May 2000, Darren McKeeman hired me as the editor of
22 Necromantic.com, a website devoted to erotic culture from a gothic perspective, including dark
23 and noir erotica and pornography reviews, erotica and written culture commentary and reporting.
24 I began writing a bi-weekly on-line column called “Reviews from the Darkside,” which was an
25 adult video review column. (The name played off of the “gothic” sense of the darkside.)
26 Attached hereto as Exhibit E is a true and correct copy of the a screen capture which I took from
27 the Internet Archive’s “way back machine”, which shows an archived copy of the masthead for
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1 the Necromantic.com website as it appeared at least on November 9, 2000. I am listed as the
2 “Editor in chief” and that had been the case since my coming to work at Necromantic.com earlier
3 that year.

4 13. In June 2000, Necromantic.com launched a second column that I authored. This
5 column was called “Cold Crevices” which was more of a dark, sex and culture commentary
6 column. Cold Crevices ran bi-weekly as well. I continued to write, and Necromantic.com
7 continued to publish, both of these adult-review and adult-sex culture commentary columns until
8 March 2001. All of my columns were published under my name and brand, VIOLET BLUE.

9 14. In December 2000, Good Vibrations asked me to provide my services as a writer
10 and founding editor for the *Good Vibes Magazine*. The *Good Vibes Magazine* was then (and still
11 is today) an on-line magazine available at www.goodvibes.com. My article called “Perfumed
12 Garden: Extolling the Virtues of the Vulva” was published in December of 2000 under my name
13 and brand, VIOLET BLUE. A copy of this article is available from the www.goodvibes.com
14 website which is located at:

15 <http://www.goodvibes.com/Content.aspx?id=1126&leftMenu=35&lr=y>. Attached hereto as
16 Exhibit F is a true and correct copy of a print out of this article from the [goodvibes.com](http://www.goodvibes.com) website.
17 I wrote several more articles for *Good Vibes Magazine*, and also edited the magazine until my
18 departure from the company in June of 2005.

19 15. At the same time that I was editing for the *Good Vibes Magazine*, between
20 approximately 2000 and 2005, I was also writing regularly for other publications, and further
21 building my career and my brand.

22 16. Based on the quality of my work and my notoriety as a machine and robotics
23 artist and sex writer, which had built up from at least 1996 to 2000, I had several book proposals
24 in the works with publishing companies by the year 2000. Through negotiations that lasted for
25 several months, I signed a Publishing Agreement dated January 17, 2001, with the book
26 publisher Cleis Press, Inc. (“Cleis Press”). The book in this contract was tentatively entitled “The
27 Sweet Life: Stories of Sexual Fantasies and Adventures for Couples” (“Sweet Life”). Almost
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1 immediately thereafter, and partially in response to contract offers that I received from various
2 other publishers, Cleis Press extended our relationship by offering me a contract to write two
3 additional books. That deal was finalized and signed a few months later in a contract dated May
4 4, 2001. The books contemplated by this second contract were "How To Go Down On A
5 Woman, The Ultimate Guide To Cunnilingus" and "How To Go Down On A Man, The Ultimate
6 Guide To Fellatio." Attached hereto as Exhibit **G** is a true and correct copy of my January 17,
7 2007, contract with Cleis Press. Attached hereto as Exhibit **H** is a true and correct copy of my
8 May 4, 2001, contract with Cleis Press. (Due to the confidential nature of Exhibits **G** and **H**, I
9 have redacted the non-essential information from these documents.)

10 17. In January of 2001, my first book (Sweet Life) was announced to distributors, and
11 trade press. In May of 2001, it was announced at the on-line book retailer, www.amazon.com,
12 and pre-orders were being taken at that time. Sweet Life was thereafter shipped to stores in
13 October of 2001 and quickly sold out and had to be reprinted right away.

14 18. In June of 2001, I launched my personal website, at www.tinybubbles.com.

15 19. When I first learned of Woffinden's use of my name, in late 2003, I immediately
16 saw the potential for confusion. At that time, I thought and hoped that any such instances of
17 confusion would be rare exceptions, unconnected to any real problem. Unfortunately, this was
18 not to be.

19 20. Over the years, I have repeatedly encountered people, or experienced events,
20 where the public has confused Defendant Woffinden and me. For example, around October 27,
21 2006, I received several communications from journalists (including Justin Juul, writing for the
22 San Francisco Bay Guardian) who were surprised to learn that I was appearing at the 2006
23 "Exotic Erotic Ball." I had no appearances scheduled for the Exotic Erotic Ball, but learned that
24 Defendant Woffinden was scheduled to appear as "Violet Blue." Defendant Woffinden's
25 appearance was widely advertised and promoted locally and internationally as an appearance by
26 "Violet Blue."

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1 21. In early 2007, I was honored to be named a “Forbes Web Celeb,” an award given
2 each year by Forbes.com to the 25 most influential people online. Unfortunately, in episode 86 of
3 This Week In Tech, an on-line downloadable radio show, the hosts mocked several of the “Web
4 Celebs” named by Forbes.com, including “Violet Blue.” When I drew attention to the mockery
5 in my San Francisco Chronicle column, Co-host LaPorte responded that he had confused me
6 with Defendant Woffinden.

7 22. As another example, is when AVN, the very organization so familiar with
8 Defendant Woffinden’s work that it had honored her as “Best New Starlet” in 2002, erroneously
9 reported that my book, “The Ultimate Guide to Sexual Fantasy: How to Turn Your Fantasies Into
10 Reality,” was authored by Defendant Woffinden. Attached hereto as Exhibit **I** is a true and
11 correct copy of the AVN article from its printed publication incorrectly attributing my work to
12 Defendant Woffinden.

13 23. In another article found at AVN.com, I was again mistaken for Defendant
14 Woffinden when it published an article on a sex talk I had given in San Francisco. The article
15 was first published with the picture of Defendant Woffinden as “Violet Blue” rather than my
16 own photo. Attached hereto as Exhibit **J** it s true and correct copy of the original article
17 containing the incorrect photograph. Attached hereto as Exhibit **K** is the corrected version, ran
18 by AVN, once it learned of the error. In Exhibit J, Defendant Woffinden’s picture appears next
19 to the article. In Exhibit K, my picture now appears.

20 24. In October of 2007, I received an email message from “Dave Pounder” which,
21 from the contents, I understood was obviously intended for Defendant Woffinden. Mr. Pounder
22 clearly confused Defendant Woffinden and me. The email arrived through my email address at
23 the San Francisco Chronicle Newspaper, where I currently author a weekly column entitled
24 “Open Source Sex.” Attached hereto as Exhibit **K** is a true and correct copy of the email I
25 received from “Dave Pounder” dated October 6, 2007.

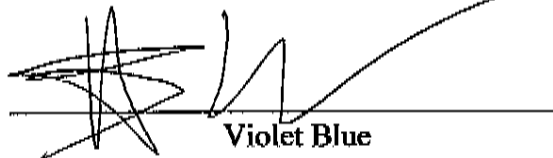
26 25. The instances of confusion were becoming more frequent and I recognized that
27 the consumers of my goods and services were very likely to be mislead by Defendant
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1 Woffinden's increasing use of my name and occasional use of my likeness as well. Some people,
2 in fact, has already been plainly misled. As a brand owner, and having developed my career for
3 over a decade under the VIOLET BLUE brand, I knew something had to be done.

4 26. On December 5, 2006, unexpectedly, Defendant Woffinden contacted me by
5 email. Attached hereto as Exhibit M is a true and correct copy of that correspondence, which was
6 attached by Defendant Woffinden to her first response, filed in November 2007, to this lawsuit.
7 This correspondence gave me some comfort because she promised to stop using my name and
8 brand for her pornographic performances.

9 27. When, among other events, Woffinden continued to perform and appear in the
10 adult industry under my brand name, and continued to permit the release of works under my
11 brand name, and when the 2007 Exotic Erotic Ball again heavily advertised and promoted an
12 appearance by "Violet Blue," I decided to bring this suit to put an end to this continuing
13 confusion in the market, the dilution of my brand, and Defendant Woffinden's unauthorized use
14 of my name and likeness.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed this 25th day of April, 2008, at San Francisco, California

17
18 
19 Violet Blue